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Senate Bill _____
By _____

House No. HB1486
By Davis

AN ACT to amend Tennessee Code Annotated, Title 54, Chapter 17, and to enact the Tennessee Scenic Byways Program of 1995.

WHEREAS, the designation of scenic highways and parkways has benefited the citizens of Tennessee by promoting tourism and enhancing recreational opportunities; and

WHEREAS, there are currently two state programs providing for the designation of roads as scenic; and

WHEREAS, these programs place different restrictions on designated roads; and

WHEREAS, in order to qualify for certain federal funds, Tennessee should establish an approved scenic byways program; and

WHEREAS, the Tennessee General Assembly finds that there is a need to establish uniform standards for such designation as well as uniform restrictions on those roads which have been designated as scenic; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Title 54, Chapter 17 is repealed in its entirety.

SECTION 2. Tennessee Code Annotated Title 54 is amended by adding the following new chapter 17:

54-17-101. Short Title. This part shall be known as the "Scenic Byway System Act of 1995."

54-17-102. Scenic byway system established. (a) There is hereby established a system of scenic byways for the state of Tennessee.

(b) Such system shall consist of those highways or roads or sections thereof that are so designated by the general assembly from time to time according to the provisions of this part.

54-17-103. Definitions. In this chapter, unless the context otherwise requires

(1) "Advertisement" means an outdoor display by painting, pasting, or affixing on any surface, of a picture, emblem, word, figure, numeral, or lettering for the purpose of making anything known;

(2) "Scenic byway" means any highway, road, or sections thereof designated as such from time to time by the general assembly under the provisions of this part; and

(3) "Sign, structure or advertising device" means any structure, post, tree, fence rock, rigid or semirigid, with or without advertising displayed thereon, situated upon or attached to real property outdoors, primarily for the purpose of furnishing a background or support upon which advertisement may be affixed.

54-17-104. Standards and Objectives. The purposes of this part and its specific objectives and standards are to:

(1) Provide for the recovery and conservation of natural scenic beauty along designated scenic highways;

(2) Provide a safe and attractive environment for tourists and travelers to enjoy the scenic beauty of the state of Tennessee;

(3) Maximize the potential of little used and bypassed sections of highway;

(4) Return economic viability to distressed areas through the promotion of tourism; and

(5) Provide for preservation of routes of historical significance in urban and rural areas of Tennessee.

54-17-105. Eligibility for scenic byway designation. Criteria for designation. (a) Highways or thoroughfares which are maintained through the use of state or federal funds, and which are not needed for essential commercial or defense traffic, shall be eligible for designation as scenic highways, with such exceptions as the general assembly may from time to time consider necessary by designation in Section 54-17-__.

(b) The designation of additions to the Tennessee scenic byway system shall be considered when the following criteria are met:

(1) The proposal is submitted in accordance with nominating procedures adopted by the Tennessee Department of Transportation;

(2) The proposal meets all relevant federal criteria;

(3) The proposed scenic byway possesses unusual, exceptional, or distinctive scenic, recreational, historical, educational, scientific, geological, natural, wildlife, cultural, or ethnic features;

(4) Highways should be so designated as to offer alternative travel routes to the high speed, heavily traveled highways in the state;

(5) Designated highways shall provide the motorist with safe and relaxing routes of travel;

(6) Scenic byways shall conform to an interconnected state scenic highway system, except in unusual situations whereby a highway is judged desirable for inclusion within the system because of unique scenic, historical, geologic or pastoral features.

(7) The proposed scenic byway is located on an existing highway or roadway which has legal public access;

(8) The proponents of the designation have established the existence of strong local support for the designation; and

(9) The proponents of the designation have coordinated with each governmental entity or agency having jurisdiction over property adjacent to the proposed scenic byway and have obtained a written comment or nonobjection letter from such entity or agency.

54-17-106. Proposals for scenic byway additions. (a) Any proposal for designation of a scenic byway shall be submitted to the Commissioner of the Department of Transportation.

(b) A public hearing shall be held to consider any proposal submitted to the Department of Transportation. Notice of the hearing shall be provided in the manner specified in subsection (c). All interested parties shall be given an opportunity to provide comments and submit evidence in support of or in opposition to the designation at the hearing. The Commissioner of Transportation shall enter an order adopting the proposal only if the criteria set forth in Tennessee Code Annotated 54-17-105 have been met.

(c) Not less than sixty days prior to the date of a hearing to be held pursuant to this section, the proponents of the designation shall cause notice of the proposal:

(1) To be published in the newspaper or newspapers located in the town nearest the proposed designated scenic byway. The notice shall be inserted in three successive issues of said newspaper or newspapers.

(2) To be posted at conspicuous points along the perimeter of the proposed scenic byway. With respect to proposed scenic byways which exceed ten miles, the posting requirements of this subsection shall be satisfied by posting the required notice at least once every ten miles.

(3) Notice published pursuant to the provisions of this subsection shall contain the date of the hearing and a summary of the proposed designation. The proponents of the proposed designation shall be responsible for all costs necessary to comply with the notice requirements of this paragraph.

(d) Any section of roads proposed for scenic byway designation which is adjacent to land zoned commercial or industrial or upon which is located one or more permanent structures at which commercial or industrial activity is conducted, shall be excluded from the scenic byway designation.

54-17-107. Management. Promotion. Speed limit. (a) Once the general assembly designates a highway or road or a portion thereof as a Tennessee scenic highway, the state or local agency having jurisdiction thereof shall erect appropriate signs marking such designation, in accordance with the rules and regulations hereby authorized to be promulgated, from funds appropriated by the general assembly for such purpose. These signs shall conform to standards established by the comprehensive statewide scenic highway plan. Furthermore, the state or local agency having jurisdiction over the particular scenic highway shall provide proper marking, maintenance, and refuse removal services in connection with such highway.

(b) The department of tourist development shall study each newly designated scenic highway with the intention of including it in state and national promotional campaigns. In no instance may scenic highways be promoted through advertisement on any sign, structure or advertising device other than signs used for marking scenic highways by the department of transportation or local agency having jurisdiction.

(c) The planning office shall act to coordinate the efforts of local planning commissions, development districts, chambers of commerce, convention and visitors bureaus, and other federal, state, local, and private organizations in continuing the promotion and development of the scenic highway system.

(d) The maximum recommended speed limit for scenic highways shall conform to appropriate standards of traffic volume and motorist safety as determined by the agency having jurisdiction, but should not exceed fifty miles per hour (50 m.p.h.).

54-17-108. Advertising or junkyards prohibited on scenic byways. Authority of Commissioner to acquire. (a) Whenever a road or highway has been designated part of the system, it is unlawful for any person to construct, use, operate or maintain any advertising structure or junkyard within two thousand feet (2,000') of any road or highway which is a designated part of the system and which is located either outside the corporate limits or any city or town or at any place within a "tourist resort county" as defined in § 42-1-301.

(b) The commissioner is authorized to acquire such advertising structure or junkyard by purchase, gift, or condemnation, and to pay just compensation for the removal of these structures and junkyards.

54-17-109. Advertising permitted on scenic byways. The following advertising structures, or parts thereof, are excepted from all provisions of § 54-17-108; however, as to advertising structures referred to in subdivisions (1)-(3) and (10), this exception shall not apply if such structures are larger than one hundred square feet (100 sq. ft.) or more frequent than one (1) sign of permissible size to every one thousand feet (1,000') per road or highway frontage, except that an owner or lessee may display at least one (1) sale or rental sign of permissible size on each piece of property for sale or rent:

(1) Those constructed by the owner or lessee of a place of business or residence on land belonging to such owner or lessee and not more than one hundred feet (100') from such place of business or residence, and relating solely to merchandise services or entertainment sold, produced, manufactured or furnished at such place of business or residence;

(2) Those constructed, erected, operated, used or maintained on any farm by the owner or lessee of such farm and relating solely to farm produce, merchandise, service or entertainment sold, produced, manufactured or furnished on such farm;

(3) Those upon real property posted or displayed by the owner or by the authority of the owner, stating that real property is for sale or rent;

(4) Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of such officer's official or directed duties, or by trustees under deeds of trust, deeds of assignment or other similar instruments;

(5) Danger or precautionary signs relating to the premises on which they are located, or signs warning of the condition of or dangers of travel on a highway or road, erected or authorized by the department of transportation or applicable local agency or forest fire warning signs erected

under authority of the department of agriculture and signs, notices or symbols erected by the United States government under the direction of the United States forest service;

(6) Signs solely to denote route to any city, town, village or historic place or shrine;

(7) Notices of any railroad, bridge, ferry or other transportation or transmission company necessary for the direction or safety of the public;

(8) Signs, notices or symbols for the information of aviators as to location, directions and landings and conditions affecting safety in aviation;

(9) Signs or notices placed at a junction of two (2) or more roads in the state highway system denoting only the distance or direction of a residence;

(10) Signs or notices erected or maintained upon property giving the name of the owner, lessee or occupant of the premises;

(11) Advertisements, advertising signs and advertising structures within the corporate limits of cities or towns;

(12) Historical markers erected by duly constituted authorized public authorities;

(13) Highway or road markers and signs erected or caused to be erected by duly authorized public authorities; and

(14) Signs erected upon property warning the public against hunting and fishing or trespassing.

54-17-110. Removal or abatement of advertising structures and junkyards. (a) Any advertising structure or junkyard which is constructed or erected, in violation of this part constitutes a public nuisance subject to abatement as provided by law.

(b) If the advertising structure or junkyard is so declared, it shall forthwith be removed or abated and for that purpose the district attorney general or the district attorney general's duly appointed representative or any authorized representative of the state may enter upon private property without incurring any liability.

(c) The power of eminent domain may be utilized to remove existing advertising structures or junkyards from within one thousand feet (1,000') of either side of designated Tennessee scenic highways.

(d) Should the state of Tennessee fail to enforce the provisions of this section, any citizen or group of citizens may institute legal proceedings in a court of competent jurisdiction to require the state of Tennessee to enforce this section.

54-17-111. Trash dumping prohibited. Penalties. Dumping or disposal of trash or refuse within five hundred feet (500') of the highway right-of-way is specifically prohibited, and the usual penalties for littering state highways are doubled in the case of scenic highways.

54-17-112. Criminal sanctions. (a) Any person, firm or corporation violating any provision of this part commits a Class C misdemeanor.

(b) Each and every day during which a violation of any provision of this part continues is deemed a separate offense.

(c) The attorney general and reporter, the district attorney general for the judicial district in which such violation occurs or is threatened, any state, municipal or county official or any adjacent or neighboring property owner who would be damaged by a violation of this part, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or other appropriate action, actions or proceedings to prevent, enjoin or abate or remove such violation.

54-17-113. Statutory conflict. Whenever a provision of this part is found to be in conflict with a provision of any private or public act or local ordinance or code, the provision which establishes the higher standard for promotion and protection of the health, safety, and welfare of the people shall prevail; provided that §§ 54-17-108 and 54-17-115 shall prevail in all applicable instances, any other provision of the law to the contrary notwithstanding.

54-17-114. Establishment and designation of scenic byways. (a) For the purposes of this part, the following are initially designated scenic byways:

(1) Class I. Urban Roads.

(A) That portion of Kingston Pike bearing the designation of State Highway 1 and U.S. Highway 11-70 in Knox County from its intersection with Concord Street and Neyland Drive in the city of Knoxville westward to the intersection of Kingston Pike with Lyons View Drive;

(B) That portion of Lyons View Drive from its intersection with Kingston Pike westward to its intersection with Northshore Drive;

(C) That portion of U.S. Highway 70 South (West End Avenue) in Nashville from one hundred feet (100') west of Elmington Avenue westward to its intersection with Ensworth Avenue;

(D) All of Cherokee Boulevard located in the City of Knoxville;

(E) Two Rivers Parkway in Davidson County; and

(F) Those portions of State Highway 100 in Davidson County from its intersection with Cheekwood Terrace south to its intersection with the Harpeth River and from its intersection with McCrory Lane south to its intersection with the South Harpeth River and all of State Highway 251 in Davidson County, and that portion of State Highway 254 (Old Hickory Boulevard) from its intersection with State Highway 100 east to its intersection with Granny White Pike;

(2) Class II. Rural Roads.

(A) The portion of U.S. Highway 41 from its intersection with Interstate Highway 24 in Hamilton County westward through the Tennessee River Gorge, Jasper and on to the junction of that highway with State Highway 27 at Kimball (Marion County) and south along State Highway 27 to Interstate 24;

(B) That portion of State Highway 66 from the French Broad River to Interstate Highway 40, in Sevier County;

(C) That portion of the Pellissippi Parkway (State Highway 162) in Knox County from its intersection with Interstate Highway 40, to Melton Hill Lake;

(D) The John Sevier Highway, in Knox County, from the Alcoa Highway (U.S. 129) to the Chapman Highway (U.S. 411/441);

(E) That portion of Northshore Drive in Knox County from its intersection with Lyons View Drive and Westland Drive west to Loudon County;

(F) The portion of U.S. Highway 70 North beginning east of Cookeville at the Falling Water Bridge and extending approximately five (5) miles toward Monterey through the Dry Valley Community and ending at the Sand Springs Community;

(G) That portion of State Highway 73 from the City of Maryville to the City of Townsend;

(H) That portion of Westland Drive in Knoxville from its intersection with Northshore Drive to its intersection with Northshore Drive at the western end;

(I) All of U.S. Highway 411 in Blount County and that portion of U.S. Highway 411 in Sevier County from the Blount County boundary to the intersection of such highway with the Chapman Highway (U.S. Highway 441);

(J) That portion of new State Highway 95 in Loudon and Blount counties from the Fort Loudon Dam to its intersection with U.S. Highway 129 at Morganton Road;

(K) The portion of U.S. Highway 129 in Blount County, known as the 129 Bypass, from its intersection with State Highway 73 and Hall Road in the City of Alcoa to its intersection with U.S. Highway 411 in the City of Maryville;

(L) All of Lyons Bend Road in Knox County;

(M) That portion of Pittman Center Road from the intersection of Pittman Center Road with State Highway 73E to the intersection of Pittman Center Road with U.S. Highway 411, east of Sevierville, but excluding those portions of Pittman Center Road which are within the boundaries, as of January 1, 1982, of incorporated municipalities;

(O) Hardin Valley Road in Knox County;

(P) That portion of State Highway 58 in Hamilton County from the city limits of Chattanooga, as of July 1, 1987, to Hamilton county boundary;

(Q) That portion of Pellissippi Parkway (State Highway 162) constructed in Knox and Blount counties after January 1, 1987, but excluding those portions of the Pellissippi Parkway which are within the boundaries of incorporated municipalities on January 1, 1987;

(R) All of the Natchez Trace Parkway, except for those portions within the boundaries of incorporated municipalities;

(S) All of the Foothills Parkway, except for those portions within the boundaries of incorporated municipalities;

(T) That portion of Alcoa Highway from the intersection of Alcoa Highway and Kingston Pike in Knox County to the intersection of Alcoa Highway and Singleton Station Road in Blount County;

(U) The 9/141 mile segment of the "Charles H. Coolidge Medal of Honor Highway" beginning with its intersection with Signal Mountain Road to State Route 153;

(V) The 9.33 mile segment of the "Bill Carter Causeway" beginning with the intersection with State Route 153 north of Soddy Lake in Soddy-Daisy;

(W) That portion of Highway 70 South from Murfreesboro to Woodbury;

(X) All of U.S. Highway 27/State Route 29 in Rhea County;

(Y) That portion of U.S. Highway 411 in Sevier County from the city limits of Sevierville to the Jefferson County boundary; and

(Z) That portion of U.S. Highway 411 in Sevier county from its intersection with U.S. Highway 441 at Newell Station west to the Blount County boundary;

(AA) That segment of state route 416 in Sevier County from its intersection with U.S. highway 321; and

(BB) That portion of state highway 70 in Hawkins and Hancock counties from the intersection of state highway 94 at Alumwell to the intersection of state highway 33 at Kyles Ford, eleven and three-tenths (11.3) miles.

(b) No state or local governmental entity, agency or department shall take any action which undermines the scenic and historical qualities of roads designated as scenic highways under subdivision (a)(1).

(3) Roads formerly designated as parkways under the "Tennessee Parkway System Act."

54-17-115. Building restrictions near scenic highways. (a)(1) The exposed portion of buildings constructed or erected on property located within one thousand feet (1,000') of a scenic highway shall not exceed a height of thirty-five feet (35') above the level of the highway on property located below the level of such a highway, or a height of 35 feet (35') above the ground line on property located above the level of such a highway.

(2) Such restriction on buildings shall apply to such a route, notwithstanding such route being located inside or outside a municipality and notwithstanding any provision or a law or ordinance to the contrary.

(b) It is the legislative intent of this section, in part, that possession of a building permit at the time a road or highway is designated a scenic highway shall not allow any future construction based on that permit.

(c)(1) This section shall not apply to any building in existence at the time a road or highway is designated a part of the system.

(2) Silos and buildings designed for agricultural use are exempted from the application of this section.

(3) Any geographic area designated by state law and managed by a development authority authorized to promote and regulate technology-based economic development is exempt from the application of this section.

(4) The provisions of § 54-17-113 do not apply to this section.

54-17-116. Effect of designation. Existing building permits. Construction of Part. (a) Designation of a road or highway as a scenic highway under this part shall be presumed to arise from the public necessity and to protect the public good.

(b) The provisions of § 54-17-115 shall become effective immediately upon designation of a road or highway as a scenic highway, the issuance of any building permit to the contrary notwithstanding, unless construction under such permit is so substantial as to render compliance with this part unfeasible.

(c) The designation of scenic highways by the general assembly shall not give rise to actions for damages in any court of this state. This part shall be liberally construed to effect its remedial purposes.

54-17-117. Existing outdoor advertising structures. (a) All outdoor advertising structures issued a permit prior to April 27, 1982, shall be valid.

(b) These structures shall be able to be maintained, repaired, reconstructed or constructed according to the original application for the outdoor advertising permit.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.